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In the Supreme Court of the United States

OCTOBER TERM, 1982

GREATER WASHINGTON CENTRAL LABOR COUNCIL,
PETITIONER
v.
DISTRICT OF COLUMBIA

FOOD AND ALLIED SERVICES TRADE COUNCIL
OF METROPOLITAN WASHINGTON, PETITIONER
v.
DISTRICT OF COLUMBIA

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

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QUESTION PRESENTED

Whether the Council of the District of Columbia possessed authority under the District of Columbia Self-Government and Governmental Reorganization Act of 1973 to enact the Workers' Compensation Act of 1979, which replaces a 1928 enactment by Congress establishing a workers' compensation program for private sector employees in the District.

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BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

This brief is filed in response to the Court's invitation to the Solicitor General to express the views of the United States.

STATEMENT

1. Private sector employees in the District of Columbia were first covered by a workers' compensation program in 1928, when Congress passed the Act of May 17, 1928, ch. 612, 45 Stat. 600, codified at D.C. Code Ann. §§ 36-501

et seq. (1973 & Supp. 1978) ("the 1928 Act"). That statute applied the provisions of the Longshoremen's and Harbor Workers' Compensation Act of 1927 ("LHWCA"), 33 U.S.C. (& Supp. V) 901 *et seq.*, to non-maritime private sector employees in the District of Columbia.[1] At the time the 1928 Act was passed, employees of the District of Columbia government already were covered by a workers' compensation program under the terms of the Federal Employees' Compensation Act, 5 U.S.C. 8101 *et seq.* See 5 U.S.C. 8101(1)(D), 8139.

The Secretary of Labor has statutory responsibility for administration of the LHWCA (see 33 U.S.C. 939). The 1928 Act provided that the Secretary also would administer workers' compensation claims by non-maritime private sector employees in the District pursuant to the provisions of the LHWCA. Thus, such employees filed claims with a deputy commissioner of the Department of Labor (33 U.S.C. 919(a)-(c)). Following the deputy commissioner's recommendation, either the employee or the employer could request a hearing before an administrative law judge, whose order could be reviewed in turn by the Benefits Review Board of the Department of Labor (33 U.S.C. (& Supp. V) 919(d), 921(b)). Persons adversely affected by a final order of the Board could appeal to the United States court of appeals for the circuit in which the injury occurred (33 U.S.C. 921(c)). In addition, a beneficiary of a compensation award or the deputy commissioner could seek enforcement of the order in the federal district court for the district in which the injury occurred or in which the employer had his principal place of business or maintained an office (33 U.S.C. 921(d); see also 33 U.S.C. 918(a)).

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[1]Earlier efforts by Congress to enact such a program had failed because of disagreement over the appropriate system of insurance and plan of administration. S. Rep. No. 852, 70th Cong., 1st Sess. 1 (1928).

2. In 1973, Congress enacted the District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 774, codified in part at D.C. Code Ann. §§ 1-201 *et seq.* (1981) ("Home Rule Act"). That Act has two distinct purposes. First, Congress provided the citizens of the District of Columbia with an opportunity to approve a charter for self government, in order to "relieve Congress of the burden of legislating upon essentially local District matters." D.C. Code Ann. §§ 1-201(a) (1981). Titles III, IV, and VI and portions of Title VII of the Home Rule Act provide for such self-government upon approval by the citizens. Second, in order to implement certain reorganization recommendations made by the Commission on the Organization of the Government of the District of Columbia (Nelsen Commission), Congress transferred authority over specified local matters from the federal government to the pre-home rule government. See H.R. Rep. No. 93-482, 93d Cong., 1st Sess. 4-6 (1973). This transfer was accomplished under Title II of the Home Rule Act and was to occur "irrespective of whether the charter * * * is accepted." D.C. Code Ann. § 1-201(b) (1981). Among the functions transferred to the District government under Title II was the authority, previously exercised by the Secretary of Labor under the Federal Employees' Compensation Act, to process workers' compensation claims of District of Columbia government employees. Home Rule Act, Section 204(e), 87 Stat. 783-784.[2]

In 1974, the citizens of the District of Columbia voted to adopt the self-government charter provided for in the Home Rule Act. Under the charter, Congress delegates to the District broad legislative authority over "all rightful

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[2]The District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Code Ann. §§ 1-624.1 *et seq.* (1981), accomplished the transfer of authority with respect to claims of District of Columbia government employees.

subjects of legislation within the District." D.C. Code Ann. § 1-204 (1981). This legislative power is subject to certain enumerated limitations and to the specific restrictions imposed upon the states by Article I, Section 10 of the United States Constitution. The enumerated limitations on the power of the Council of the District of Columbia found at D.C. Code Ann. § 1-233 (1981), include the following:

> (a) The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to:
>
> * * * * *
>
> (3) Enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;
>
> (4) Enact any act, resolution, or rule with respect to any provision of Title 11 [of the District of Columbia Code] (relating to organization and jurisdiction of the District of Columbia courts);
>
> * * * * *
>
> (8) Enact any act or regulation relating to the United States District Court for the District of Columbia or any other court of the United States in the District other than the District courts, or relating to the duties or powers of the United States Attorney or the United States Marshal for the District of Columbia[.]
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> * * * * *
>
> (b) Nothing in this Act shall be construed as vesting in the District government any greater authority over the

> National Zoological Park, the National Guard of the District of Columbia, the Washington Aqueduct, the National Capital Planning Commission, or, except as otherwise specifically provided in this Act, over any federal agency, than was vested in the Commissioner prior to January 2, 1975.

Congress retains ultimate legislative authority over the District pursuant to Article I, Section 8, Clause 17 of the United States Constitution, which vests Congress with plenary legislative authority for the District of Columbia. D.C. Code Ann. §§ 1-201(a), 1-206 (1981).

3. On May 6, 1980, the City Council passed the District of Columbia Workers' Compensation Act of 1979, D.C. Code Ann. §§ 36-301 *et seq.* (1981) ("the 1979 Act"). The 1979 Act establishes a workers' compensation program for private sector employees in the District. Under the Act claims are filed with District officials, and judicial review and enforcement of the Mayor's compensation awards may be sought in the local District of Columbia courts. Section 46 of the 1979 Act, 27 D.C. Reg. 2541 (1980), expressly repeals the 1928 Act of Congress.

After the Mayor signed the Act, it was transmitted to Congress for the 30-day layover period prescribed by D.C. Code Ann. § 1-233(c) (1981). Since there was no concurrent resolution of disapproval, the Act became law on July 1, 1980. 27 D.C. Reg. 2974 (1980). The Act became effective two years later, on July 26, 1982, pursuant to D.C. Law 4-161, 29 D.C. Reg. 1179 (1982). All claims arising after that date must be filed with the appropriate District officials, rather than with the Department of Labor.

4. On July 15, 1980, petitioner Greater Washington Central Labor Council, AFL-CIO, along with three private sector employees, brought suit against the District of Columbia in the Superior Court of the District of Columbia

seeking a declaratory judgment that the 1979 Act was invalid and an injunction against its enforcement. In September 1980, the Superior Court, in a bench decision (Pet. App. 19a-33a),[3] ruled that the 1979 Act was null and void. The court acknowledged that "the grant of legislative powers to the District of Columbia Council in the Home Rule Act has been made in broad terms" (*id.* at 25a), and that, in the absence of an existing workers' compensation law previously enacted by Congress, it could readily be concluded that "the Council had the power to fill the vacuum by appropriate legislation" (*id.* at 26a). However, the court found it significant that Congress had not repealed the 1928 Act, although it had provided expressly for transfer of the workers' compensation program for District of Columbia government employees (*id.* at 27a-29a). The court held that the 1979 Act violated various enumerated limitations on the Council's authority (*id.* at 29a-31a).

The District of Columbia Court of Appeals reversed (Pet. App. 35a-57a),[4] concluding that passage of the 1979 Act was within the legislative authority of the City Council. The court of appeals concluded that the express transfer by Congress of certain functions, including the workers' compensation program for District of Columbia government employees, without a concurrent express transfer of the private sector workers' compensation program, did not indicate any intent to prohibit the Council from legislating on the latter subject (*id.* at 44a). The court of appeals also held that passage of a local workers' compensation statute did not violate any of the enumerated limitations on the

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[3]"Pet. App." refers to the appendix to the petition in No. 82-116.

[4]On appeal, petitioner Food and Allied Services Trades Council of Metropolitan Washington was permitted to intervene on behalf of petitioner Greater Washington Central Labor Council.

Council's authority found in the Home Rule Act, D.C. Code Ann. §§ 1-233(a)(3), (4), (8), and (b) (1981) (Pet. App. 45a-52a).

DISCUSSION

The District of Columbia Court of Appeals correctly held that the Council of the District of Columbia possessed authority to enact a local workers' compensation system designed to replace an earlier congressional enactment establishing a program of workers' compensation for private sector employees in the District of Columbia. The decision below relates to a local matter and has no appreciable effect on operations of the federal government. Thus, in light of "the practice of [this] Court to defer to the decisions of the courts of the District of Columbia on matters of exclusively local concern" (*Whalen* v. *United States*, 445 U.S. 684, 687 (1980)), we believe the decision does not warrant further review.

1. The court of appeals correctly held that workers' compensation for private sector employees in the District of Columbia is a "rightful subject[] of legislation" (D.C. Code Ann. § 1-204 (1981)) for the City Council. Except for certain enumerated limitations (see pages 4-5, *supra*), Congress intended that the Council could legislate "to the *greatest extent possible*, consistent with the constitutional mandate, [in order to] relieve Congress of the burden of legislating upon essentially local District matters." D.C. Code Ann. § 1-201(a) (1981) (emphasis added). Members of Congress noted that the Home Rule Act would "relieve[] the Congress from the time-consuming and burdensome task of sitting as City Council." H.R. Rep. No. 93-482, 93d Cong., 1st Sess. 2 (1973). They meant for the "very essence of local government" to be handled by the District. 119 Cong. Rec. 22947 (1973) (statement of Sen. Eagleton, Chairman of the Senate Committee on the District of Columbia).

This Court has concluded that the "rightful subjects of legislation" that may be delegated to the District of Columbia are as broad as the police power of a state. *District of Columbia* v. *John R. Thompson Co.*, 346 U.S. 100, 110 (1953). In *Thompson*, the Court upheld the validity of District legislation prohibiting discrimination in public accommodations, passed by a local District body pursuant to an earlier delegation of legislative authority over "all rightful subjects of legislation." *Id.* at 102-105. The Court analogized Congress's grant of authority to the District to a federal grant of legislative power to territorial governments and to the grant of self-government by a state to its municipal corporations. *Id.* at 105-108. The Court concluded (*id.* at 109):

> It would seem then that on the analogy of the delegation of powers of self-government and home rule both to municipalities and to territories there is no constitutional barrier to the delegation by Congress to the District of Columbia of full legislative power, subject of course to constitutional limitations to which all lawmaking is subservient and subject also to the power of Congress at any time to revise, alter, or revoke the authority granted.

The United States Court of Appeals for the District of Columbia Circuit, in upholding Council regulations banning geographical discrimination with respect to sale of insurance, has stated that "[w]hen Congress delegates its police power to the local government, that entity's powers become as broad as those of Congress, limited only by the Constitution or specific Congressional enactment." *Firemen's Insurance Co.* v. *Washington*, 483 F.2d 1323, 1328 (1973). See also *Maryland & District of Columbia Rifle & Pistol Association* v. *Washington*, 442 F.2d 123 (D.C. Cir. 1971) (District of Columbia Council had authority to promulgate gun control code). In this case Congress expressly

premised its broad delegation of powers under the Home Rule Act on the *Thompson* and *Firemen's Insurance Co.* decisions. See H.R. Rep. No. 93-482, *supra*, at 8, 58-63.

There can be little doubt that Congress's broad delegation of authority to the District in the Home Rule Act included the power to enact workers' compensation legislation. Such legislation traditionally has been viewed as a matter of local concern, falling within the police power of states. See *New York Central R R.* v. *White*, 243 U.S. 188, 202-207 (1917). Courts have regarded the 1928 Act as local in nature, since it was passed by Congress to provide private sector District employees with the same type of protection that most states were providing. See *Thomas* v. *Washington Gas Light Co.*, 448 U.S. 261, 266 n.7, 277 (1980) (plurality opinion); *Cardillo* v. *Liberty Mutual Insurance Co.*, 330 U.S. 469, 476 (1947); *Director, Office of Workers' Compensation Programs* v. *National Van Lines, Inc.*, 613 F.2d 972, 979 n.20 (D.C. Cir. 1979), cert. denied, 448 U.S. 907 (1980) (the 1928 Act is "essentially parallel to a state workmen's compensation statute"); *Gudmundson* v. *Cardillo*, 126 F.2d 521, 525 (D.C. Cir. 1942).[5] Congress itself recognized

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[5]See also *Fonseca* v. *Prann*, 282 F.2d 153, 156-157 (1st Cir. 1960), cert. denied, 365 U.S. 860 (1961) (upholding a workers' compensation law enacted by the territory of Puerto Rico as a valid exercise of congressionally delegated authority).

Petitioners' reliance on *Milhouse* v. *Levi*, 548 F.2d 357 (D.C. Cir. 1976), is misplaced. That case held that the Attorney General retained authority to regulate the furlough program at Lorton Reformatory, a prison for District of Columbia offenders, since that authority had not been expressly transferred to the District under either the District of Columbia Court Reform and Criminal Procedure Act, Pub. L. No. 91-358, 84 Stat. 475, D.C. Code Ann. §§ 11-101 *et seq.* (1981), or the Home Rule Act. However, the congressional enactment that conferred the authority on the Attorney General, 18 U.S.C. 4082, was not confined to the District of Columbia, but applied to all prisoners within the custody of the Attorney General. See page 12, *infra*. In addition, the

the local nature of workers' compensation legislation when it passed the 1928 Act. See S. Rep. No. 852, 70th Cong., 1st Sess. 2 (1928) (legislation intended to afford protection to workers similar to that provided in "various modern state laws"); see also H.R. Rep. No. 859, 69th Cong., 1st Sess. 1 (1926) (legislation expected to meet "peculiar" conditions existing in the District of Columbia).

Members of Congress have acknowledged expressly that the delegation of authority to the District under the Home Rule Act would include the power to enact a local workers' compensation scheme. During debate on the 1972 amendments to the LHWCA, Representative Daniels, Chairman of the Select Subcommittee on Labor (which has jurisdiction over the LHWCA), stated that it was the Committee's view that "when the District of Columbia has home rule, [it]

District apparently had not enacted its own regulations with respect to the Lorton furlough program (see 548 F.2d at 362-363 n.13), so that there was no issue before the court as to whether such an effort would have constituted a "rightful subject of legislation." Rather, the question was whether the Court Reform Act or the Home Rule Act of their own force operated to transfer authority to the District. Finally, since the United States held legal title to the land on which the prison complex is located (548 F.2d at 359 n.5), *Milhouse* might be said to involve the question of authority over federal property with respect to which the District's legislative authority is limited. See D.C. Code Ann. § 1-233(a)(3)(1981).

Petitioners also cite (Pet. 11-12; 82-146 Pet. 8-9 n.9) *District of Columbia* v. *Washington Home Ownership Council, Inc.*, 415 A.2d 1349 (D.C. 1980) (en banc) (successive emergency legislation relating to condominium and cooperative conversion); *Bishop* v. *District of Columbia*, 411 A.2d 997 (D.C. 1980) (en banc) (tax on nonresident unincorporated professionals); *Capitol Hill Restoration Society, Inc.* v. *Moore*, 410 A.2d 184 (D.C. 1979) (jurisdiction of District of Columbia Court of Appeals); and *Apartment & Office Building Association* v. *Washington*, 343 A.2d 323 (D.C. 1975) (rent control regulations). These cases, unlike the present case, all involved actions by the City Council that contravened express limitations found in the Home Rule Act.

can provide for [its] own compensation act for the people here in the District of Columbia." 118 Cong. Rec. 36382 (1972); see also 118 Cong. Rec. 36386 (1972) ("Questions and Answers," stating that "[b]ecause the District of Columbia has no home rule, it is the responsibility of Congress to enact compensation laws"). The legislative history of the Home Rule Act does not contain any statement suggesting that Congress intended to prevent the City Council from legislating on private sector workers' compensation, once the self-government charter was approved by the voters. After the 1979 Act was passed by the City Council and signed by the Mayor, the measure was sent to Congress for the 30-day layover period prescribed by D.C. Code Ann. § 1-233(c) (1981). Members of Congress expressly commended the passage of the Act. For example, on June 5, 1980, during the layover period, Senator Morgan congratulated the City Council for enacting a local workers' compensation program. 126 Cong. Rec. S6339 (daily ed. June 5, 1980). See also 126 Cong. Rec. H745-H747 (daily ed. Feb. 7, 1980) (statement of Rep. Erlenborn). Neither House of Congress took any action to disapprove the Act.[6] Congress's failure to overturn the Act or to declare it ultra vires suggests that it recognized the validity of the City Council's action. See *North Haven Board of Education* v. *Bell*, No. 80-986 (May 17, 1982), slip op. 21-23; *Merrill Lynch, Pierce, Fenner & Smith, Inc.* v. *Curran*, No. 80-203 (May 3, 1982), slip op. 28 n.66; *Saxbe* v. *Bustos*, 419 U.S. 65, 74 (1974).[7]

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[6]Neither the Senate Committee nor the House Committee reported a resolution of disapproval. We have been unable to find any evidence that a resolution of disapproval was even introduced.

[7]The Superior Court concluded (Pet. App. 19a-34a) that the 1979 Act was null and void in part because Congress itself had not repealed the 1928 Act. However, the Home Rule Act gives the Council the authority to amend or repeal an Act of Congress, so long as it does not concern federal functions or property and is restricted in its application

2. Petitioners contend (Pet. 13-14; 82-146 Pet. 9-15) that Congress's express transfer of responsibilities relating to workers' compensation for District of Columbia government employees in Title II of the Home Rule Act and the absence of a concurrent express transfer of authority over private sector workers' compensation indicates that the Council is barred from legislating on the latter subject. As the court of appeals noted (Pet. App. 44a), transfer of the workers' compensation program for public employees may have required explicit congressional legislation since those functions had been prescribed under the Federal Employees' Compensation Act, which does not apply exclusively to the District of Columbia (see D.C. Code Ann. § 1-233(a)(3) (1981)), whereas "the existing workmen's compensation program for private employees, the Workmen's Compensation Act of 1928, is a congressionally enacted local statute that deals exclusively with District of Columbia matters. Consequently, no express congressional legislation is required to effect the transfer" (Pet. App. 44a).[8]

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exclusively in or to the District. See D.C. Code Ann. § 1-233(a)(3) (1981). See also § 1-208(b). Section 46 of the 1979 Act, 27 D.C. Reg. 2541 (1980), expressly repeals the 1928 Act. Of course, Congress is free to withdraw the Council's authority at any time and to reimpose a workers' compensation scheme enacted by Congress itself. See D.C. Code Ann. §§ 1-201(a), 1-206 (1981). However, Congress has not chosen to do so.

The record in this case includes a short memorandum by the Solicitor of Labor, written in 1980, expressing the view that the City Council lacked authority to enact a workers' compensation scheme covering private sector employees in the absence of an express repeal by Congress of the 1928 Act. See 82-146 Pet. App. 41a-42a. That memorandum, which was prepared for internal purposes, was written within a relatively short time frame and without extensive research. This brief expresses the current, and more fully considered, views of the Department of Labor on this subject.

[8]The 1979 Act does not cover workers' compensation claims of District of Columbia maritime workers, who continue to be covered under the federal LHWCA.

The enumerated powers in Title II of the Home Rule Act do not serve as limitations on the general powers granted in Titles III and IV of the Act. Under Title II, Congress transferred certain functions to the pre-home rule government (including those functions relating to workers' compensation for District government employees), regardless of whether the voters chose to accept the self-government charter.[9] The self-government provisions in Titles III and IV provide a separate grant of general legislative authority subject to specified limitations. By delegating authority over all "rightful subjects of legislation" under those titles, Congress was able to avoid the burdensome task of enumerating each area in which the District could act. See the discussion during the House subcommittee markup, in Staff of House Comm. on the District of Columbia, 93d Cong., 2d Sess., *Home Rule for the District of Columbia 1973-1974: Background and Legislative History of H.R. 9056, H.R. 9682 and Related Bills Culminating in the District of Columbia Self-Government and Governmental Reorganization Act* 211 (Comm. Print 1974) ("*Home Rule History*"). Thus, it is clear that Congress did not intend that transfer of one type of power under Title II would indicate an intent not to transfer another sort of power under the broader delegation of Titles III and IV.[10]

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[9]The legislative history makes clear that Title II of the Home Rule Act was to take effect prior to the date on which the self-government measures (Titles III, IV and VI and portions of Title VII) took effect and regardless of whether the charter was ratified by local voters. H.R. Rep. No. 93-482, *supra*, at 2, 5; see also Section 771 of the Home Rule Act, 87 Stat. 836.

[10]Petitioner Food and Allied Services Trade Council notes (82-146 Pet. 11) that Congress also expressly transferred to the District under Title II of the Home Rule Act the voluntary apprenticeship program, which had been established by a "local" statute. However, transfer of one local program under Title II, which was to take effect regardless of whether District voters approved a self-government charter, does not suggest that Congress intended to preclude the Council from legislating

3. Petitioners argue that passage of the 1979 Act violates certain limitations placed on the City Council under Title VI of the Home Rule Act. They contend (Pet. 23-25; 82-146 Pet. 15-25) that the 1979 Act violates D.C. Code Ann. § 1-233(a)(3) (1981), which prohibits the City Council from enacting any law "which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District." The court of appeals correctly rejected this argument.

As the court of appeals observed (Pet. App. 45a), "Congress intended in § 1-233(a)(3) to withhold from local officials the authority to affect or to control decisions made by federal officials in administering federal laws that are national in scope as opposed to laws that relate solely to the District of Columbia." As stated in the D.C. Executive Branch Proposal for Home Rule Organic Act (*reprinted in Home Rule History, supra,* at 182):

> The functions reserved to the federal level would be those related to federal operations in the District and to property held and used by the Federal Government for conduct of its administrative, judicial, and legislative operations; and for the monuments pertaining to the nation's past. The functions would include physical planning of these federal areas, construction and maintenance of federal buildings, and administration of federal park areas * * *.

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with respect to other local programs once the charter, with its broad delegation of legislative authority, had been approved. There is no suggestion in the Home Rule Act or its legislative history that Congress anticipated that it would be required to repeal expressly each of the many pieces of local legislation it had enacted in the past before the Council would be free to legislate on the full range of local matters, or before the Council's enactments could take effect. Such a procedure would be contrary to the express desire of Congress to extricate itself from the business of local legislation. See page 7, *supra*.

The 1979 Act, which involves an essentially local matter, does not infringe on a federal function of the sort referred to in Section 1-233(a)(3).

While the Department of Labor administered the District's workers' compensation system prior to 1982, both for historical reasons and as a matter of convenience, that system related solely to the District. The fact of administration by a federal agency did not in itself "transform the function into a 'function of the United States' for purposes of § 1-233(a)(3)" (Pet. App. 45a). The LHWCA, which set up a federal program of workers' compensation for maritime workers administered by the Department of Labor, and the 1928 Act, which governed a program administered in the same fashion but applicable only to the District of Columbia, are "wholly separate and distinct;" the former was enacted pursuant to the Necessary and Proper Clause (Article I, Section 8, Clause 18) in aid of the judicial powers of Article III, while the latter was passed under the authority of Article I, Section 8, Clause 17 of the Constitution. See *Gudmundson* v. *Cardillo, supra,* 126 F.2d at 525.[11]

The court of appeals correctly concluded that "[t]he repeal of [the 1928 Act] by the Council has no impact on the functions of the United States Department of Labor in the administration of the Longshoremen's Act as it relates to the maritime industry nationally" (Pet. App. 48a n.2). Obviously, the number of claims processed under the

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[11]Beginning in 1973, District of Columbia funds were authorized to be appropriated "as may be necessary to pay the expenses incurred by the United States Department of Labor in the administration of [the 1928 Act]." D.C. Code Ann. § 36-503 (Supp. 1978). District funds have paid most of the costs of operating District 40 of the Department's Office of Workers' Compensation Programs, which serves the District of Columbia. Federal appropriations finance other personnel (such as administrative law judges) and services connected with the processing of claims of private sector employees of the District of Columbia.

LHWCA procedures, primarily in District 40 (serving the District of Columbia), will decrease as a result of the 1979 Act. But the Department will continue to administer the LHWCA as a national law in the same manner as before the 1979 Act took effect. Thus, the 1979 Act does not violate the limitation placed on the City Council in D.C. Code Ann. § 1-233(a)(3) (1981).[12]

4. Petitioners' other main contention (Pet. 16-21; 82-146 Pet. 25-28) is that the 1979 Act violates D.C. Code Ann. § 1-233(a)(4) and (8) (1981), which prohibit the City Council from enacting any law affecting the organization or jurisdiction of the District of Columbia courts or relating to the United States courts. As the court of appeals concluded (Pet. App. 49a-52a), the 1979 Act does not alter the jurisdiction of the courts, but merely provides that enforcement or judicial review of compensation orders shall be had pursuant to the existing jurisdiction of the local courts. The District of Columbia courts have jurisdiction to enforce orders of the Mayor pursuant to D.C. Code Ann. § 11-921(a)(1981) and to review contested administrative cases under D.C. Code Ann. § 1-1510 (1981). The City Council was not precluded from enacting legislation, otherwise authorized under the Home Rule Act, that provides for judicial recourse in accordance with the local courts' existing jurisdiction. Moreover, in 1970 the District of Columbia

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[12]Petitioners argue (Pet. 24-25; 82-146 Pet. 20-22) that the 1928 Act was federal in nature because it had "extraterritorial" application, citing, *inter alia*, the fact that judicial proceedings under the Act were to take place in the district or circuit in which the injury occurred (see 33 U.S.C. 921(a) and (d)), which was not always the District of Columbia, and that judicial interpretations of the 1928 Act had nationwide application for purposes of the LHWCA. However, these "extraterritorial" features were not central to the 1928 Act and did not change its essentially local nature. Most state workers' compensation statutes also have a limited "extraterritorial" effect. See, *e.g.*, *Thomas* v. *Washington Gas Light Co.*, *supra*, 448 U.S. at 274-275 (plurality opinion).

courts were vested with general jurisdiction over local matters by the District of Columbia Court Reform and Criminal Procedure Act, Pub. L. No. 91-358, 84 Stat. 475, D.C. Code Ann. §§ 11-101 *et seq.* (1981). See *Andrade* v. *Jackson*, 401 A.2d 990, 992-993 (D.C. 1979); *Reichman* v. *Franklin Simon Corp.*, 392 A.2d 9, 12 (D.C. 1978) (1970 Act was designed to relieve federal courts of long-standing local responsibilities and to give local courts powers analogous to those of state courts). Thus, the 1979 Act properly placed judicial control over local workers' compensation matters in the local courts. The federal courts continue to exercise jurisdiction over cases that arise under the LHWCA and to operate as they have in the past. The removal of certain local cases from the coverage of the LHWCA therefore cannot be considered to be an act relating to the federal courts within the meaning of D.C. Code Ann. § 1-233(a)(8) (1981).[13]

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[13]The Superior Court suggested (Pet. App. 30a) that the 1979 Act violates D.C. Code Ann. § 1-233(b)(1981), which prohibits the Council from exercising any greater authority over any federal agency than was vested in the Commissioner of the District of Columbia prior to 1975. The transfer of certain functions that are local in nature from the Department of Labor to the District is simply an implementation of home rule and does not constitute an "exercise of authority" over the Department within the meaning of that provision (which obviously was not intended to prevent home rule from being effectuated).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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